

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Claudia Quigley	Team: Team # 7	CCRB Case #: 200609150	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 07/08/2006 1:46 AM	Location of Incident: § 87(2)(b)	Precinct: 83	18 Mo. SOL 1/8/2008	EO SOL 1/8/2008	
Date/Time CV Reported Sat, 07/08/2006 4:40 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 07/12/2006 1:12 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Javier Velez	24737	935924	083 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM James Lukeson	09696	935216	083 PCT
2. SGT Douglas Biscardi	00116	923560	083 PCT
3. SGT Stanley Lopez	04868	906662	083 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Javier Velez	Force: PO Javier Velez pointed his gun at § 87(2)(b)	§ 87(2)(b)
B.POM Javier Velez	Discourtesy: PO Javier Velez spoke obscenely and rudely to § 87(2)(b)	§ 87(2)(b)
C.POM Javier Velez	Force: PO Javier Velez used physical force against § 87(2)(b)	§ 87(2)(b)
D.POM Javier Velez	Discourtesy: PO Javier Velez spoke obscenely and rudely to § 87(2)(b)	§ 87(2)(b)
E.POM Javier Velez	Force: PO Javier Velez used physical force against § 87(2)(b)	§ 87(2)(b)
F.POM Javier Velez	Force: PO Javier Velez struck § 87(2)(b) with a curtain rod.	§ 87(2)(b)
G.POM Javier Velez	Force: PO Javier Velez pushed § 87(2)(b) face against a door at the 83rd Precinct Stationhouse.	§ 87(2)(b)

### Synopsis

On July 8, 2006, Sgt. Stanley Lopez of the 83<sup>rd</sup> Precinct called the Internal Affairs Bureau (IAB) to report an injury sustained by prisoner § 87(2)(b). According to § 87(2)(b) on July 8, 2006, at approximately 1:46am, he was drinking with three friends in the front yard of his house located on § 87(2)(b) in Brooklyn. § 87(2)(b) observed a patrol car driving down the block and he quickly entered his house because he had a beer in his hand. His friends stayed outside. § 87(2)(b) stated that PO Javier Velez entered the house, pointed his gun at him, and allegedly told him, "Motherfucker stop there" (allegations A and B). PO Velez moved up the stairs and attempted to grab § 87(2)(b)'s hands. § 87(2)(b) jerked his hands away and PO Velez allegedly started punching § 87(2)(b) (allegation C). § 87(2)(b)'s wife, § 87(2)(b) came out of their apartment and tried to grab PO Velez's hands. PO Velez allegedly told her, "Get out of here bitch," and pushed her away (allegations D and E). § 87(2)(b) stated that PO Velez then grabbed a curtain rod and allegedly hit him in the head, causing an open cut that required eight staples (allegation F). PO Velez handcuffed § 87(2)(b) and allegedly shoved him down the stairs. § 87(2)(b) was transported to the 83<sup>rd</sup> Precinct where PO Velez allegedly pushed his face against a door (allegation G). § 87(2)(b) was charged § 87(2)(b).

§ 87(2)(g)

### Summary of Complaint

On July 8, 2006, at approximately 4:40am, Sgt. Stanley Lopez of the 83<sup>rd</sup> Precinct called IAB to report the following: PO Javier Velez and PO James Lukeson of the 83<sup>rd</sup> Precinct responded to a complaint regarding a disorderly group in front of § 87(2)(b) in Brooklyn. The officers informed Sgt. Lopez that when they arrived at the location they attempted to arrest § 87(2)(b) and he resisted. Sgt. Lopez reported that as a result of the struggle § 87(2)(b) was injured with an open cut to his face and possibly his head. § 87(2)(b) was taken to § 87(2)(b) for treatment (encl. 11B).

§ 87(2)(b) was interviewed on July 18, 2006 at § 87(2)(b) Brooklyn (encl. 13B)

The house where § 87(2)(b) lives is a two-story house with a walk out basement. The entrance is located on the § 87(2)(b) floor, elevated from the street level and accessible by stairs. The house is owned by members of the same family. § 87(2)(b) and § 87(2)(b) lived on the § 87(2)(b) § 87(2)(b) is 5' tall, and weighs 160lbs. § 87(2)(b). § 87(2)(b)'s English is limited therefore the interview was conducted in Spanish and was translated into English by Inv. Vega.

According to § 87(2)(b) on July 8, 2006 at approximately 1:46am he was sitting on the front stairs (Photo 1-2 encl. 9A) of his house. He was with three friends, § 87(2)(b), § 87(2)(b), and § 87(2)(b). They were having some beers and § 87(2)(b) was drinking his sixth beer. § 87(2)(b) observed a patrol car driving down the block and quickly entered his home because he had a beer in his hand. § 87(2)(b), § 87(2)(b), and § 87(2)(b) stayed outside. § 87(2)(b) ran up the stairs and arrived at the § 87(2)(b) floor when he heard an officer, identified as PO Javier Velez by § 87(2)(b) telling him to stop. § 87(2)(b) turned around. When he saw PO Velez at the bottom of the stairs with his gun pointed at him § 87(2)(b) stood still. There was a wall to § 87(2)(b).

§ 87(2)(b)'s left, the entrance to his apartment was on his right, and there was another wall behind him. There was a big cooking pot, about a 1.5' tall and 2.25' wide sitting on the floor between the back wall and § 87(2)(b) (Photo 3-4 encl. 9B).

PO Velez approached § 87(2)(b) holstered his gun, and told him, "Motherfucker stop there." § 87(2)(b) asked him, "Why? Why arrest?" PO Velez did not answer, instead he tried to grab § 87(2)(b)'s hands, but § 87(2)(b) jerked them away and kept them out of reach. PO Velez stated, "I'm going to arrest you," and began punching § 87(2)(b) all over his upper torso and face with his closed fists. § 87(2)(b) fell backwards and stumbled into the pot. His thighs, backside, and half of his torso were wedged inside the pot while his calves and arms were hanging outside. PO Velez was still hitting him when a few seconds later § 87(2)(b)'s wife, § 87(2)(b) came out of the apartment and stated in Spanish, "What's wrong? Why is he hitting you?" She tried to grab PO Velez's hands but PO Velez shrugged her off and told her, "Get out of here bitch." PO Velez's arm hit § 87(2)(b) in the chest and sent her stumbling backwards into her son, § 87(2)(b) who had come out of the apartment and was standing behind her.

§ 87(2)(b) stood up and told PO Velez, "Don't push my wife," at which point, PO Velez grabbed a 5' iron curtain rod that was leaning against the wall behind § 87(2)(b). He then hit § 87(2)(b) in the head on his left temple above his hairline with the rod's end. After this § 87(2)(b) barely remember what happened. He knew he was bleeding and stumbling down the stairs after being pushed by PO Velez. He could not recall details because he was dazed from his head wound (encl. 10B). He does not remember falling down the front steps and only knew of this detail because his family told him so. He could not recall being placed in a patrol car and taken to the 83<sup>rd</sup> Precinct stationhouse. His memory became clear as of the time that he arrived at the stationhouse, when PO Velez took him out of the car and pulled him towards the stationhouse. He recalled that PO Velez pushed his face against a door as he entered the stationhouse. A while later EMS came and they took him to § 87(2)(b). He stayed at the hospital for approximately § 87(2)(b) and his cut was closed with eight staples. He was then taken back to the stationhouse. He saw the judge on § 87(2)(b), and was giving a court date for § 87(2)(b).

Upon further questioning, § 87(2)(b) stated that he was not sure whether he had a beer in his hand when he saw the officers driving down the block. He stated that he may have left the beer on the ground when he went inside the house or may not have had a beer at all. He did not have a beer in his hand at the beginning of the interaction with PO Velez. § 87(2)(b) stated that on that day, § 87(2)(b) had taken down a curtain and placed the rod outside to be thrown out later. The officers took the rod to the precinct but § 87(2)(b) did not know who took it or when. § 87(2)(b) was aware that sometime during the interaction with PO Velez another officer arrived on the scene but this officer just stood in the middle of the stairs leading to the § 87(2)(b) floor and he did not interact with § 87(2)(b). This officer was white and taller than PO Velez. PO Velez was Hispanic, about 5'2, and had glasses.

§ 87(2)(b)'s arrest photo (encl. 14A) shows a bruise on the right cheekbone and bandaged on the left temple. When EMS arrived to transport § 87(2)(b) to the hospital § 87(2)(b) stated that the police beat him up. He also complained that his head hurt (encl. 35D).

### **Results of Investigation**

#### **Victims Statement**

§ 87(2)(b) was interviewed on July 18, 2006 at § 87(2)(b) Brooklyn (encl. 15B) § 87(2)(b) English is limited; therefore, the interview was conducted in Spanish and was translated into English by Inv. Vega.

According to § 87(2)(b) on July 8, 2006, at approximately 1:46am she was sleeping with her § 87(2)(b) § 87(2)(b) when she heard noises in the hallway outside her apartment. She came outside and observed an officer hitting her husband, § 87(2)(b) § 87(2)(b) identified the officer as PO Velez from his shield. § 87(2)(b) stated that § 87(2)(b) was wedged inside a big cooking pan that had been sitting at the top of stairs. PO Velez was leaning over him and punching him with his closed fists on his torso and his head. § 87(2)(b) moved towards them, stood facing their profile, and asked PO Velez, "Excuse me sir, you speak Spanish?" PO Velez did not answer and continued hitting § 87(2)(b) § 87(2)(b) stated in both English and Spanish, "Please don't hit him, don't hit him," and she tried to grab PO Velez's wrists. PO Velez stated, "Fucking bitch get out of here" and

pushed her away when he moved his arm backwards and hit her in the chest. This caused § 87(2)(b) to stumble backwards into her son who had followed her out of the apartment.

§ 87(2)(b) was crying and telling PO Velez not to hit his father. § 87(2)(b) tried to push himself out of the pot without success and told PO Velez, "Don't touch my wife." At which point PO Velez took an 5' iron rod that was leaning against the wall behind the cooking pan and hit § 87(2)(b) in the upper part of his left temple, breaking his skin and bending the top part of the rod. He let go of the curtain rod and continued punching § 87(2)(b) with his fists. § 87(2)(b) started screaming for her sister-in-law, § 87(2)(b) who lives on the § 87(2)(b) floor. § 87(2)(b) came halfway up the stairs and asked PO Velez not to hit § 87(2)(b). PO Velez ignored her and continued punching § 87(2)(b). At this point § 87(2)(b)'s son, § 87(2)(b) came up the stairs with his hands up and began speaking in English to PO Velez, who stopped hitting § 87(2)(b). § 87(2)(b) came all the way up the stairs and helped PO Velez to get § 87(2)(b) out of the pot and into a pair of handcuffs. § 87(2)(b) was dazed and the wound was bleeding. § 87(2)(b) walked down the stairs followed by § 87(2)(b) who was being pushed along by PO Velez. § 87(2)(b) followed them down the stairs telling PO Velez not to push her husband because he was going to fall. She could not remember when § 87(2)(b) left the scene.

As they were exiting the building PO Velez gave § 87(2)(b) a final push, causing § 87(2)(b) to fall down the stairs. PO2, identified by the investigation as PO James Lukeson, grabbed § 87(2)(b) and helped him up. § 87(2)(b) asked § 87(2)(b) to go with § 87(2)(b) because somebody should be with him in case PO Velez continued hitting him. § 87(2)(b) then told § 87(2)(b) § 87(2)(b) go with him. I am going to call a lawyer because he also hit me." PO Velez responded, "Oh, I hit you too? You are also arrested," and he tried to handcuff her. § 87(2)(b) jerked away and ran upstairs where she locked herself in her apartment with her son. A few moments later, other police officers knocked on her door and when she opened the door they told her that she was under arrest. The officers took her outside and handcuffed her. § 87(2)(b) took § 87(2)(b)

Upon further questioning § 87(2)(b) stated that she remembered PO Lukeson standing on the stairs sometime during the incident and remembered telling him to "look and please help him § 87(2)(b) but PO Lukeson just stared and did not say or do anything. § 87(2)(b) did not know what happened to the curtain rod. However, later on at the stationhouse she saw an officer awakening a female prisoner who fell sleep by touching her with the rod. § 87(2)(b) also stated that in the stationhouse PO Velez passed by, looked at her, and laughed. § 87(2)(b) went to the hospital on § 87(2)(b) because she was feeling stressed out and was not eating or sleeping. She was prescribed sleeping pills and sedatives. Her arrest was processed and she was charged § 87(2)(b)

§ 87(2)(b) arrest photo (encl. 16A) did not show any injuries.

### Witnesses Statements

§ 87(2)(b) was interviewed on July 18, 2006 at § 87(2)(b) in Brooklyn (encl. 17B)

§ 87(2)(b) is § 87(2)(b)'s sister. Her English is limited; therefore, the interview was conducted in Spanish and was translated into English by Inv. Vega.

According to § 87(2)(b) on July 8, 2006, at approximately 1:46am, she was sleeping when she heard some noise upstairs followed by her sister-in-law, § 87(2)(b) screaming her name. § 87(2)(b) got up, exited her § 87(2)(b) floor apartment, and ran upstairs towards the § 87(2)(b) floor. As she was about to go up to the stairs leading to the § 87(2)(b) floor she observed a uniformed officer, identified by the investigation as PO Javier Velez, at the top of the stairs bending over her brother, § 87(2)(b). PO Velez was punching § 87(2)(b) in the chest. § 87(2)(b) had no way of obstructing the punches or getting away because his backside and part of his torso were wedged in a large cooking pot that had been at the top of the stairs for a few days. § 87(2)(b) went up the stairs and stopped three quarters of the way there. § 87(2)(b) shouted at PO Velez, "Sir, why are you hitting my brother. Please don't hit him." § 87(2)(b) who was in the § 87(2)(b) floor hallway, yelled at § 87(2)(b) "The officer hit me." At this point, an officer identified through the investigation as PO James Lukeson, came up the stairs, and stopped mid way. § 87(2)(b) told him, "Look sir, how he hits him, tell him not to hit him." PO Lukeson called out to PO Velez something in English and indicated for him to come down but PO Velez ignored him and continued hitting § 87(2)(b) and swearing, stating, "Fucking bitch." § 87(2)(b) also added that PO Velez was sweating excessively.

At this time, § 87(2)(b)'s son, § 87(2)(b) came up the stairs and told § 87(2)(b) to go back downstairs. § 87(2)(b) knowing that her son spoke English, walked down to the § 87(2)(b) floor.

A few minutes later § 87(2)(b) who was waiting on the § 87(2)(b) floor, observed PO Lukeson come down the stairs and leave the building. He was followed by § 87(2)(b) who was handcuffed, and PO Velez. § 87(2)(b) was bleeding profusely from a wound in his head. PO Velez pushed § 87(2)(b) as they were nearing the end of the stairs and he fell down three steps to the floor. § 87(2)(b) got up upon PO Velez's prompting and they exited the building. § 87(2)(b) observed them as they exited, at which point PO Velez pushed § 87(2)(b) down the outside stairs, making him stumble and fall down. When he reached the end of the stairs, he sat down on the last step. § 87(2)(b) who had followed them downstairs, asked § 87(2)(b) to go with § 87(2)(b) to the stationhouse. PO Velez turned towards her and told her, "You are going to be arrested too because you hit me." § 87(2)(b) turned around and ran upstairs to her apartment. A few minutes later more officers arrived at the location and they went upstairs to arrest § 87(2)(b). She agreed to come with them and told § 87(2)(b) to take her son, § 87(2)(b) with her. § 87(2)(b) took § 87(2)(b) downstairs and did not observe when the officers took § 87(2)(b) out of the building.

Upon further questioning § 87(2)(b) explained that § 87(2)(b) did not hit or try to hit PO Velez because he was drunk at the time and had little coordination besides the fact that he was stuck halfway in the cooking pot.

§ 87(2)(b) was interviewed on July 18, 2006 at § 87(2)(b) in Brooklyn (encl. 18B)  
§ 87(2)(b) is § 87(2)(b)'s nephew and he lives at § 87(2)(b) in Brooklyn.

According to § 87(2)(b) on July 8, 2006, at approximately 1:46am, he was sleeping when he heard a noise coming from upstairs. The noise was coming from either the § 87(2)(b) floor. § 87(2)(b) got up and went to investigate. When he arrived at the § 87(2)(b) floor he observed his cousins, § 87(2)(b), standing in the § 87(2)(b) floor hallway, at the bottom of the stairs leading to the § 87(2)(b) floor. He also observed a police officer, identified through the investigation as PO James Lukeson, standing halfway up the stairs leading to the § 87(2)(b) floor. § 87(2)(b) heard § 87(2)(b) telling an officer to "stop hitting their uncle, that he shouldn't be doing that." When § 87(2)(b) moved towards the stairs, he observed the officer they were talking to leaning over his uncle, § 87(2)(b). § 87(2)(b)'s was bleeding. The officer, identified through the investigation as PO Javier Velez, had a pair of handcuffs in his right hand that he was holding as if they were brass knuckles. His left hand was placed on § 87(2)(b)'s chest. § 87(2)(b)'s backside, part of his torso and thighs were wedged in a large cooking pot. PO Velez was punching § 87(2)(b) on his torso and arms with the hand holding the handcuffs. § 87(2)(b) was holding his hands up, trying to protect himself and his face.

§ 87(2)(b)'s wife, § 87(2)(b) was standing in the § 87(2)(b) floor hallway with her § 87(2)(b)-old son § 87(2)(b). They were both leaning against the banister. § 87(2)(b) was crying and telling PO Velez, "Don't hit my dad, please do not hit my father." § 87(2)(b) was also saying, "Don't hit him, please," but PO Velez ignored them. § 87(2)(b) stated that PO Velez punched § 87(2)(b) approximately five times and stopped only when § 87(2)(b) ran past his cousins and up the stairs. § 87(2)(b) was going to run past PO Lukeson but he stopped him. § 87(2)(b) heard § 87(2)(b) say, "Why are you doing this to me?" and § 87(2)(b) told him, "Just calm down, don't do anything," because § 87(2)(b) was trying to get up. PO Lukeson just stood on the stairs and did not do or say anything throughout the whole incident. § 87(2)(b) told PO Lukeson, "Let me go upstairs, let me go to my uncle and to the officer to calm them down." He stated this because PO Velez was acting "out of this world, his eyes were wide open, and he was not listening." § 87(2)(b) also told PO Lukeson, "Relax, let me calm him down so you can arrest him and take him to the precinct."

PO Lukeson allowed § 87(2)(b) to go up but when § 87(2)(b) arrived next to PO Velez, PO Velez began punching § 87(2)(b) again. § 87(2)(b) did not try to stop the officer, he just said, "Stop, stop." § 87(2)(b) did not do anything because at this point PO Lukeson came over and tried to lift § 87(2)(b) out of cooking pot. PO Velez continued punching § 87(2)(b) until PO Lukeson finally got him out of the pot. § 87(2)(b) stated, "Just get him up and handcuff him and just take him to the precinct." According to § 87(2)(b) this all happened very quickly and PO Velez landed about five punches on § 87(2)(b). PO Lukeson and PO Velez placed § 87(2)(b) face first against the wall and handcuffed him. § 87(2)(b) was asking for help and stated that "the officers were going to kill him."

Once § 87(2)(b) was apprehended, § 87(2)(b) walked down the stairs, followed by the officers and § 87(2)(b). § 87(2)(b) could not remember the order. Once they got outside PO Velez pushed § 87(2)(b) and § 87(2)(b) stumbled down the stairs leading to the street. § 87(2)(b) was asking for help and § 87(2)(b) came outside and told the officers to stop what they were doing. PO Velez turned to her and told her, "I am going to arrest you too." § 87(2)(b) ran back to her apartment and the officers called for back up. When the back up officers arrived they went upstairs and a few minutes later they came back down with § 87(2)(b) in handcuffs. § 87(2)(b) was outside with PO Velez and § 87(2)(b). When the back up officers came out with § 87(2)(b) they told § 87(2)(b) to go back inside. § 87(2)(b) complied.

Upon further questioning, § 87(2)(b) stated that he recognized PO Lukeson because he had seen him patrolling the area on previous occasions. § 87(2)(b) stated that while the incident happened he observed a metal pole somewhere near PO Velez.

§ 87(2)(b) was interviewed on July 18, 2006, at § 87(2)(b) in Brooklyn (encl. 19B-C)  
§ 87(2)(b) is § 87(2)(b)'s niece and she lives at § 87(2)(b) in Brooklyn.

According to § 87(2)(b) on July 8, 2006, at approximately 1:46am, she was sleeping when she heard yelling outside her door. She and her husband, § 87(2)(b), got out of bed and ran outside their apartment, into the hallway. As they exited their apartment they observed a police officer, identified by the investigation as PO Javier Velez, going up the stairs to the § 87(2)(b) floor, yelling, "Lets go, get out of here, you are going to jail." § 87(2)(b) and § 87(2)(b) walked to the bottom of the stairs and looked up. They observed their aunt, § 87(2)(b) coming out of the apartment, located on the § 87(2)(b) floor yelling, "What is going on?" They also observed PO Velez yelling at and punching their uncle, § 87(2)(b). PO Velez's back was towards § 87(2)(b). PO Velez was leaning over § 87(2)(b). § 87(2)(b) could not see § 87(2)(b) completely because PO Velez was blocking her view; however, she could see that PO Velez was punching him because she could see his arms going up and down.

§ 87(2)(b)'s backside, thighs, and part of his torso were wedged in a cooking pot that had been left outside the apartment at the top of the stairs. § 87(2)(b) was screaming in Spanish, "Please don't hit him like that. He does not understand you and he is drunk." PO Velez ignored her and continued punching § 87(2)(b) so § 87(2)(b) reached out to touch PO Velez's left hand. She did not grab the hand or try to get in the way. PO Velez responded by pushing her away and hitting her in the chest with his arm, saying, "Get out of here bitch." § 87(2)(b) stumbled back, into her § 87(2)(b)-old son, § 87(2)(b) who was standing behind her. § 87(2)(b) stated, "Why? Why are you doing this?" but PO Velez kept on screaming, "You are going to jail." PO Velez pushed § 87(2)(b) which caused him to lean towards the right. § 87(2)(b) was able to get a good look at him and she observed that he was bleeding from the head. His face was covered in blood. § 87(2)(b) also observed that § 87(2)(b) was passing out. He was hardly moving.

According to § 87(2)(b) § 87(2)(b)'s sister, § 87(2)(b) was also present and observed the incident. § 87(2)(b) told § 87(2)(b) in Spanish, "The police officer is too mean. He is hitting my brother." § 87(2)(b) told her, "Well, why don't you do something?" and § 87(2)(b) answered, "The police officer does not want to hear nothing. I was begging him not to hit him." PO Velez's partner, identified by the investigation as PO James Lukeson, was also present. At some point he was standing at the bottom of the stairs, to § 87(2)(b)'s right. § 87(2)(b) was standing to her left. PO Lukeson was telling PO Velez, "Come down. Lets go," but PO Velez ignored him. PO Lukeson did not interact with any of the civilians and did not interfere during the incident. His demeanor was calm. § 87(2)(b) stated that she observed PO Velez hitting § 87(2)(b) for approximately a minute until her cousin § 87(2)(b) came up. § 87(2)(b) went up the stairs, raised his hands up, and stated, "I'm going to help you. He does not understand what you are saying. I am going help you." § 87(2)(b) got closer to PO Velez and § 87(2)(b) and told § 87(2)(b) "Uncle lets go, get up, lets go. You have to go with them." § 87(2)(b) was able to lift § 87(2)(b) out the pot. PO Velez proceeded to handcuff § 87(2)(b) and continue down the stairs. According to § 87(2)(b) PO Velez grabbed § 87(2)(b)'s arm and pulled him down the stairs. § 87(2)(b) was stumbling and hit the rail multiple times. PO Velez escorted § 87(2)(b) outside and sat him at the bottom of the outside stairs.

§ 87(2)(b) came down with them and told § 87(2)(b) "Go with them because I know he wants to kill him." § 87(2)(b) stated, "I can't go with him, The officer won't let me." At which point PO Velez turned to § 87(2)(b) and grabbed her arms to place her in handcuffs. § 87(2)(b) pulled away and ran upstairs. PO Velez then

directed himself at § 87(2)(b) who was standing by the door, stating "Where is the lady? She is going to jail too. Go get her upstairs. If she don't come out right now she is going to be in big trouble." PO Lukeson was standing by § 87(2)(b), § 87(2)(b), § 87(2)(b), and some neighbors were also outside. More officers arrived at this point. The officers asked § 87(2)(b), "Where is she?" and she told them that she was upstairs with her son. They went upstairs to get § 87(2)(b) arrested her, and escorted her out. § 87(2)(b) took care of § 87(2)(b). § 87(2)(b) observed that on their way down from arresting § 87(2)(b) one of the officers was carrying a curtain rod. § 87(2)(b) followed the officers and § 87(2)(b) outside and observed § 87(2)(b) leaning face down against a police car hood. She approached two female officers and asked them if she could call an ambulance for § 87(2)(b). One of the female officers told her that § 87(2)(b) was going to the stationhouse and instructed § 87(2)(b) to go back inside. § 87(2)(b) not observe when and how § 87(2)(b) sustained the injury to his head. § 87(2)(b) later informed her that PO Velez hit § 87(2)(b) in the head with a curtain rod.

### **Investigative Steps**

The investigator made various attempts to contact § 87(2)(b) and § 87(2)(b) after their CCRB in order to acquire the contact information of the individuals that were with § 87(2)(b) on the date of his arrest. None of the attempts were successful as neither § 87(2)(b) nor § 87(2)(b) returned the phone calls or answered the letters sent to them.

### **Officers Identification**

Sgt. Lopez, Sgt. King, PO Lukeson, and PO Velez were identified by IAB. Sgt. Biscardi was the officer that signed the arrest reports.

### **Officers' Statements**

#### **Sgt. Rhonny King from IAB Called the IAB Command Center on July 8, 2007 (encl. 11B)**

Sgt. King stated that the IAB investigators (unidentified) interviewed § 87(2)(b) and § 87(2)(b). The investigators also interviewed witness § 87(2)(b). § 87(2)(b) stated that PO Velez approached him while he was drinking and he tried to flee but was caught. § 87(2)(b) stated that during the struggle he was hit in the head with an unknown object. § 87(2)(b) stated that PO Velez hit § 87(2)(b) in the head with a stick that was in the house. § 87(2)(b) stated that PO Velez hit § 87(2)(b) in the head with the handcuffs and that is how § 87(2)(b) sustained the injury. § 87(2)(b) received eight staples to the wound in his head.

#### **Aided Report Worksheet, July 8, 2006 (encl. 21A-B)**

Report was prepared by PO Lukeson, noting that PO Velez was assaulted by § 87(2)(b) and taken to § 87(2)(b).

#### **PO James Lukeson's Line Of Duty Witness Statement on August 25, 2006 (encl. 22A)**

PO Lukeson stated that on July 8, 2006, at approximately 2:00am, PO Velez was assaulted by § 87(2)(b) and § 87(2)(b) in the hallway inside § 87(2)(b) while attempting to make an arrest. PO Velez was punched in the face and slapped.

#### **PO James Lukeson was interviewed at the CCRB on September 14, 2006 (encl. 23B)**

On July 8, 2006 PO James Lukeson worked 2300 x 0750. He was assigned to patrol sector G and H. His partner was PO Javier Velez. Both officers were in uniform and were assigned to a marked vehicle, number 4132. PO Lukeson was the driver. PO Lukeson noted in his memo (encl. 20A-C) that at 0145 disorderly group in front of § 87(2)(b) . 0207 2 under. § 87(2)(b) take Velez to hospital. 0350 back at 83<sup>rd</sup>. 0406 98 with new partner PO Rosario.

According to PO Lukeson, on July 8, 2006, he and PO Velez received a radio run to respond to § 87(2)(b) in Brooklyn for a disorderly group. They arrived in the vicinity at approximately 1:46am. As they were driving down Grove Street, they observed six to seven Hispanic males standing on the steps leading up to § 87(2)(b). PO Lukeson did not observe them drinking and did not hear any music. The males were not doing anything suspicious or out of the ordinary. However, as soon as the officers parked in front of the building and step out of the car, two of the males took off running down the street and the other four ran inside the building. PO Lukeson took off running down the street after them because their reaction raised his level of suspicion. However, when he looked back and observed PO Velez running inside the building he came back and also entered the building through the open doorway. PO Lukeson wanted to make sure that PO Velez was okay.

When he entered the building he observed PO Velez standing at the top of the stairs leading to the § 87(2)(b) floor. He was trying to arrest an individual later identified as § 87(2)(b). § 87(2)(b) was sitting at top of the stairs where the floor levels off with the hallway. He was swinging with his fist at PO Velez and PO Velez was trying to block him with his arms at the same time that he was trying to grab § 87(2)(b)'s hands. The other males were standing on the § 87(2)(b) floor hallway and were directing comments at PO Lukeson, of which he could only understand, "Fuck you." PO Lukeson tried to calm the males but there was a language barrier. As PO Lukeson looked up to check on PO Velez he observed § 87(2)(b) hit PO Velez in the face, knocking his glasses off. PO Lukeson did not recall what arm § 87(2)(b) used to punch PO Velez. PO Lukeson ran upstairs and halfway there he observed a metal pole lying on the floor and a female standing in the § 87(2)(b) floor hallway, slightly to the side and behind PO Velez. The female, later identified as § 87(2)(b) punched PO Velez in the back of the head. PO Lukeson could not remember what arm she used. PO Lukeson jumped over PO Velez and § 87(2)(b) grabbed § 87(2)(b) and pinned her against the wall. At this point he heard screaming and yelling and he turned around. He observed that PO Velez had § 87(2)(b) in handcuffs. However, as he turned around to look, § 87(2)(b) slipped out of his grasp, ran into the apartment and closed the door. PO Lukeson did not remember if there were any other civilians besides the three males at this point, and did not observe any civilians coming up the stairs. He added that the yelling and screaming was coming from people downstairs.

§ 87(2)(b) was no longer swinging his arms and was calm. A call was placed for assistance but PO Lukeson did not know who placed the call or when. A few minutes later about three units arrived at the scene with about nine officers who positioned themselves outside and inside the building. A few officers came upstairs and § 87(2)(b) was escorted downstairs. PO Lukeson did not know who escorted § 87(2)(b) downstairs and did not observe PO Velez doing it. The back-up officers knocked on § 87(2)(b) door and when she opened it she was arrested. PO Lukeson could not recall the details of this interaction. The officers escorted § 87(2)(b) downstairs and PO Lukeson followed with PO Velez. When they arrived outside § 87(2)(b) was already inside a police car. § 87(2)(b) was placed in another police car and they were taken to the stationhouse. PO Lukeson did not know who transported them. PO Lukeson transported PO Velez to § 87(2)(b).

Upon further questioning PO Lukeson stated that he also observed a little boy standing in the § 87(2)(b) floor hallway. He could not remember where exactly. PO Lukeson added, "He [the little boy] was watching the whole thing, he was watching his parents act like a bunch of animals, punching the police officers." PO Lukeson did not know why § 87(2)(b) acted the way he did and he did not know if § 87(2)(b) was intoxicated. According to PO Lukeson, PO Velez suffered a cut above his nose from the punch. PO Velez later informed PO Lukeson that § 87(2)(b) hit him with the metal pole. PO Lukeson did not observe PO Velez punching § 87(2)(b) hitting him with the metal pole, or using force against § 87(2)(b). Neither did he observe any officer push § 87(2)(b) down the stairs. PO Lukeson was shown a picture of § 87(2)(b)'s head wound and he stated that he did not know how § 87(2)(b) sustained that injury. He stated that when he went upstairs to assist PO Velez, § 87(2)(b) did not have any injuries. He further stated that when the other officers arrived to assist PO Velez and himself he was knocking on § 87(2)(b) door and did not see § 87(2)(b) being escorted downstairs so he did not know if he had any injuries. Neither did he know if he had any injuries when he was in the police vehicle because he did not look inside. PO Lukeson did not remember if he saw any blood in the hallway. PO Lukeson did not have any conversation with PO Velez regarding any injuries § 87(2)(b) may have suffered. PO Lukeson stated that he did not remember talking to any civilians at the scene and does not know any males named § 87(2)(b).

#### **PO Javier Velez's Memo Book Entry for July 8, 2006 (encl. 24A-C)**

PO Velez noted in his memo book that at "0148 responded to disorderly call at location. 0210 2 under. 0300 at 83<sup>rd</sup> Precinct. § 87(2)(b) in route to § 87(2)(b) 0410 back at 83<sup>rd</sup> Precinct."

#### **PO Javier Velez's Complaint Report Narrative, July 8, 2006 (encl. 25B)**

"At time and place of occurrence the arresting officer [PO Javier Velez] received a radio run of a group of disorderly in front of location. PO Velez stopped a group of individuals for drinking in public on the front stairs of location, at which time the defendants ran. Perpetrator 1 § 87(2)(b) grabbed an object from the steps, tucked the object into his waistband, and ran into the building. PO Velez pursed § 87(2)(b) into the location. PO Velez stopped § 87(2)(b) and instructed him to go downstairs and present his ID. § 87(2)(b) then struck PO Velez in the chest. PO Velez attempted to detain § 87(2)(b). § 87(2)(b) then struck PO Velez in the face with a closed fist in the face. § 87(2)(b) resisted by repeatedly striking PO Velez. Perpetrator 2 § 87(2)(b) then jumped on PO Velez's back and struck PO Velez in the face to prevent PO Velez from affecting the arrest. § 87(2)(b) then



resisted by flaring her arms and running into an apartment. PO Velez was struck in the back with a brass rod by an unapprehended perpetrator.”

**§ 87(2)(b) s Arrest Report Narrative by PO Javier Velez, July 8, 2006 (encl. 26B)**

“At time and place of occurrence the arresting officer [PO Javier Velez] was effecting an arrest § 87(2)(b), when defendant § 87(2)(b) struck PO Velez with a closed fist in the face and resisted arrest by striking PO Velez numerous times, by punching and kicking PO Velez. PO Velez was then struck on the back with a brass rod by unapprehended perpetrator.”

**§ 87(2)(b) s Arrest Report Narrative by PO Javier Velez, July 8, 2006 (encl. 27B)**

At time and place of occurrence the arresting officer [PO Javier Velez] was affecting a lawful arrest when defendant § 87(2)(b) did jump on PO Velez’s back and struck him in the face. PO Velez attempted to detain her and she resisted by flaring her arms and ran into a near by apartment preventing PO Velez from detaining her. At which point PO Velez was struck in the back with a brass rod by an unapprehended perpetrator.

**PO Javier Velez was interviewed at the CCRB on November 3, 2006 (encl. 30B-C)**

On July 8, 2006 PO Javier Velez worked 2315 x 0750 hours. He was assigned to patrol sector G and H. His partner was PO James Lukeson. Both officers were in uniform and were assigned to a marked vehicle, number 4132.

According to PO Velez, on July 8, 2006, he and PO Lukeson received a radio call about a disorderly group in front of § 87(2)(b) in Brooklyn. When the officers arrived at the location, at approximately 1:46am, they observed a group of Hispanic males sitting and standing at the foot of the steps leading to § 87(2)(b). Some of them were drinking beer. The minute the officers pulled over in front of the building the males took off running. Three of the unidentified males ran towards § 87(2)(b) and PO Lukeson ran after them. Meanwhile, as PO Velez was exiting his car, he observed one of the males, later identified as § 87(2)(b) hide a metal shiny object in his waistband, under his shirt. § 87(2)(b) then turned around and ran inside the building, along with two other unidentified males. PO Velez drew his weapon and ran into the building after them, pointing his gun. PO Velez heard somebody going up the stairs and he followed. He observed § 87(2)(b) standing at the top of the stairs and one of the unidentified males turning the corner along the stairs’ banister, into the hallway. PO Velez yelled, “Police” but the male ignored him and kept going. Once he saw that § 87(2)(b) did not have anything in his hands, PO Velez holstered his weapon.

PO Velez asked § 87(2)(b) to come downstairs but § 87(2)(b) refused. PO Velez went up a few more steps and observed the door to the apartment door open and the unidentified male standing inside, behind the doorframe. PO Velez asked § 87(2)(b) for his ID. § 87(2)(b) told him that he did not have an ID. PO Velez asked him a second time to come downstairs but § 87(2)(b) refused. At this time PO Velez tried to arrest § 87(2)(b) for § 87(2)(b) but § 87(2)(b) resisted. PO Velez had his handcuffs in his right hand and grabbed § 87(2)(b) s arm to put the handcuffs on him, but § 87(2)(b) turned and punched PO Velez about two to three times in the bridge of his nose with his right hand, breaking PO Velez’s glasses. At this point PO Velez’s back was to the apartment. A struggle ensued and while PO Velez was struggling with § 87(2)(b) almost toppling over down the stairs, PO Velez was hit on the back, between his shoulder blades. He turned around and observed that the unidentified male had hit him with a brass rod. PO Velez turned around to continue his attempt to handcuff § 87(2)(b) when a female later identified as § 87(2)(b) s wife, § 87(2)(b) came out of the apartment and jumped on PO Velez’s back. She punched him in the back of the head, smacked him in the face, and tried to rip the shield off his uniform. PO Velez tried to get her off by shrugging but was unsuccessful. PO Velez stated that as he was trying to handcuff § 87(2)(b) while being attacked by the other individuals, he hit § 87(2)(b) with the handcuffs he had on his right hand. PO Velez could not remember exactly where he hit § 87(2)(b) but stated that it may have been in the head. § 87(2)(b) was sitting on the ground trying to pull PO Velez down the stairs. PO Velez was able to handcuff one of § 87(2)(b) s arms and § 87(2)(b) kicked PO Velez in his genital area.

PO Lukeson arrived on the scene at this point and grabbed § 87(2)(b) taking her off PO Velez. PO Velez could not state how PO Lukeson controlled § 87(2)(b) because his back was towards them. PO Velez was able to handcuff § 87(2)(b) s other arm. § 87(2)(b) was able to get away from PO Lukeson and ran back into the apartment. The unidentified male was nowhere to be seen. PO Velez then escorted § 87(2)(b) downstairs with PO Lukeson, they exited the building, and PO Lukeson called for back up. A few seconds later multiple officers arrived on the scene and PO Velez went back into the building with the officers and knocked on § 87(2)(b) door. After a

few minutes she opened the door and they asked her to step outside. She complied but flailed her arms when the officers tried to handcuff her. She was not overly resistant therefore PO Velez was able to handcuff her and escorted her outside. Some of the back up officers conducted a canvass of the roof but they did not locate anyone. PO Velez could not recall the name of the other officers, only the patrol supervisor's name, Sgt. Stanley Lopez. PO Velez transported § 87(2)(b) with PO Lukeson and left him at the stationhouse. EMS then transported PO Velez to § 87(2)(b) and PO Lukeson accompanied him.

Upon further questioning, PO Velez stated that when he entered the building he did not observe anybody standing in the entrance hallway, he just heard and observed the males going up the stairs to the next floor. PO Velez stated that § 87(2)(b) was intoxicated, violent, and non-compliant, refusing to heed the officers' commands to show an ID. PO Velez stated that the unidentified male that hit him with the rod and the other unidentified male that ran inside the building along with § 87(2)(b) got away through the roof of the building. PO Velez did not recall seeing a large cooking pot in the floor or if § 87(2)(b) was laying on it. PO Velez stated that he did not recall seeing a child but remembered seeing other individuals on the steps. He did not interact with any of them and did not know who they were. Neither did he recall if PO Lukeson spoke to any of them. PO Velez heard the individuals yelling but his main focus was on § 87(2)(b) and he did not recall what they were saying. PO Velez stated that he thought that the metal object he observed on § 87(2)(b) was a weapon, however, he did not recover any weapons from § 87(2)(b). PO Velez's nose bridge was bruised and swollen and he had bruising from the left side of his neck down to his shoulder blade. § 87(2)(b) PO Velez stated that he vouchered the brass rod he was hit with. PO Velez stated that § 87(2)(b) must have sustained the injury on his head sometime during the struggle but he did not know how or when. PO Velez stated that he never had the rod in his hand during the struggle and that it was possible that the injury in § 87(2)(b)'s head happened when he was hit with the hand that was holding the handcuffs. PO Velez stated that he did not recall § 87(2)(b) falling down the stairs as he was being escorted out of the building, neither did he push § 87(2)(b)'s head against a door at the stationhouse. He denied using any profanity during his interaction with § 87(2)(b) and § 87(2)(b) and did not call him a "motherfucker" or § 87(2)(b) a "bitch."

#### **Medical Treatment of Prisoner Report, July 8, 2006 (encl. 32A)**

The report was filed by Sgt. Lopez noting that the prisoner was injured during a struggle with an officer.

#### **Sgt. Stanley Lopez was interviewed at the CCRB on January 4, 2007 (encl. 33B)**

On July 8, 2006, Sgt. Lopez worked 2347 x 0844 hours. He was the desk supervisor and he was in uniform. Sgt. Lopez stated that he did not recall if he left the desk on this day, however, said action would have been recorded in the command log, and there is no such entry. Sgt. Lopez did not have any entries in his memo book.

According to Sgt. Lopez, on July 8, 2006, he was assigned to the desk and he remembered the arrest of § 87(2)(b) and § 87(2)(b) because he made the entries in the command log. Sgt. Lopez requested both individuals' pedigree and inputted the information. Sgt. Lopez stated that he did not have any deep conversations with PO Javier Velez regarding the circumstances of the arrest, just what was recorded on the command log, such as the arrest location, time, charges, and a side note regarding § 87(2)(b)'s transportation to § 87(2)(b). Sgt. Lopez recalled seeing blood on § 87(2)(b)'s head and asking what happened. PO Velez responded that there was a struggle because § 87(2)(b) resisted arrest. § 87(2)(b) received the laceration or cut to his head when the officers tried to apprehend him. Sgt. Lopez did not remember the exact details that PO Velez gave him and stated that PO Velez was not descriptive in his account and did not explain how exactly the cut was received. Sgt. Lopez believes he then instructed the officers to call EMS. Sgt. Lopez did not recall if he spoke to PO Lukeson or had any conversations with § 87(2)(b) or § 87(2)(b) about the incident. Sgt. Lopez stated that he observed the blood on § 87(2)(b)'s head but could not really tell the source of the blood, or whether the cut was small or big. At this point the blood was dry. Sgt. Lopez stated that § 87(2)(b) seemed upset but he did not make any comments to him. Sgt. Lopez did not know if § 87(2)(b) was intoxicated.

Sgt. Lopez did not recall if PO Velez had any injuries. Sgt. Lopez stated that he did not recall if there was any evidence vouchered and did not remember being given a voucher to sign for a curtain rod. Sgt. Lopez did not remember the officers that responded to PO Velez's call for back up and did not recall if these officers brought any objects as evidence to the stationhouse. Sgt. Lopez stated that he did not remember responding to the scene and that it is not common practice for a sergeant assigned to the desk to leave the stationhouse. Sgt. Lopez stated that the patrol supervisor on this day was Sgt. Michael Vultaggio and Sgt. Douglas Biscardi was the officer that signed the

arrest report, but Sgt. Lopez did not know if these sergeants were at the scene. Sgt. Lopez was given the IAB log for review but he did not remember calling IAB. He explained that the reason why IAB was called is because the civilians asked to file a complaint. Sgt. Lopez stated that he did not have any conversation with PO Velez regarding the complaint prior to this interview.

**Sgt. Douglas Biscardi was interviewed at the CCRB on February 20, 2007 (encl. 34B)**

On July 8, 2006, Sgt. Biscardi worked 1715 x 0214 hours. He was assigned as the FTU sergeant responsible for the recruits at the academy. His duty entails going on patrol with some of the newly assigned police officers. He was in uniform and assigned to a patrol car. Sgt. Biscardi could not remember the name of the officer in the car with him. Sgt. Biscardi did not have his memo book with him but does not recall making any entries regarding this incident.

According to Sgt. Biscardi, on July 8, 2006, he was on patrol when, at approximately 1:46am, PO Javier Velez and PO James Lukeson called for back up and for a supervisor. Sgt. Biscardi was in the vicinity and therefore he responded to the scene. When he arrived at § 87(2)(b) in Brooklyn he observed that PO Velez and PO Lukeson had a male and a female in handcuffs outside the residence. The civilians were identified as § 87(2)(b) and § 87(2)(b). Sgt. Biscardi asked the officers what happened. PO Velez responded that they observed § 87(2)(b) drinking alcohol out in the street and when they approached him, the officers observed § 87(2)(b) make a motion towards his waistband and run inside the residence. PO Velez and PO Lukeson chased him and when they got to the § 87(2)(b) floor a struggle ensued. PO Velez and § 87(2)(b) fell to the ground and rolled over a few times. The officers wanted to handcuff § 87(2)(b) but § 87(2)(b) refused and punched PO Velez in the face. At some point § 87(2)(b) came out of an apartment and struck PO Velez in the back with a curtain rod. The officers continued fighting and struggling with the civilians and all fell to the ground. Finally they were able to apprehend both individuals. When Sgt. Biscardi arrived at the scene, § 87(2)(b) and § 87(2)(b) were already outside the residence and in handcuffs. § 87(2)(b) had a laceration in his forehead and PO Velez had a swollen eye. Sgt. Biscardi sent them both to the hospital and called Internal Affairs to open an investigation.

Sgt. Biscardi did not remember if PO Velez and PO Lukeson mentioned other civilians being on the scene and fleeing from the officers. Sgt. Biscardi did not know how § 87(2)(b) sustained the injury to his head and neither did PO Velez elaborate as to how the injury happened. PO Velez just mentioned that he had a struggle with § 87(2)(b) and then both PO Velez and § 87(2)(b) were sent to the hospital. When asked how PO Lukeson was involved, Sgt. Biscardi responded that from his understanding, PO Lukeson was handling § 87(2)(b) while PO Velez handled § 87(2)(b). Sgt. Biscardi stated that he was the first officer to arrive at the scene after PO Velez and PO Lukeson called for back up. Sgt. Biscardi stated that he might have entered the house to go upstairs to see the hallway where the encounter took place and to make sure the curtain rod was vouchered. He did not encounter any civilians inside the house. Sgt. Biscardi was not sure who took the curtain rod but believes it was PO Lukeson. Sgt. Biscardi was sure that the curtain rod was vouchered but he did not do the paperwork himself. Sgt. Biscardi did not remember asking to Sgt. Stanley Lopez about the incident and did not see the civilians again after they came back from the hospital. Neither did he speak to PO Velez about the incident or discuss the incident with any officers ever since.

**Lt. Elliot Colon's Line of Duty Injury Report (encl. 28A)**

§ 87(2)(b)

**Medical Records**

- § 87(2)(b) (encl. 35A-T)  
§ 87(2)(b) was admitted at § 87(2)(b). He was transported there from the 83<sup>rd</sup> Precinct.

Ambulance Call Report: § 87(2)(a)

Hospital notes: § 87(2)(a)

§ 87(2)(a)

- § 87(2)(b) (encl. 36A-FF)  
§ 87(2)(b) was admitted to § 87(2)(b). § 87(2)(b) came to the hospital requesting a psychiatric evaluation.

Nurse's Assessment and Intervention: § 87(2)(a)

#### **Police Documents**

- Roll Call (encl. 37A-B) – shows Sgt. Lopez present at desk and PO Velez and Lukeson present for duty.
- Command Log (encl. 38A)- noted § 87(2)(b) and § 87(2)(b) arrest. Also noted blood on § 87(2)(b) from unknown origin and prisoner was removed to hospital.
- Communication CD Recordings (encl. 39A-D):  
911 Call 1: Unknown Hispanic male calling to complain about three to four Hispanic males making noise and disturbing people. § 87(2)(b).  
911 Call 2: Hispanic male calling to inform police that a patrol car was parked and that two males threw a container away and took off running. § 87(2)(b).  
Radio run: Sector G to respond to § 87(2)(b).
- Voucher: Although the CCRB was unable to obtain a copy of the voucher, IAB SDS Clive Caplan confirmed its existence during a phone conversation with the investigator on June 14, 2007.

#### **Case Disposition (encl. 40A-D)**

§ 87(2)(b)) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

#### **Criminal History**

§ 87(2)(b)) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

#### **Complainant's CCRB History**

This is § 87(2)(b) and § 87(2)(b) first CCRB complaint (encl. 6A, 7A).

#### **Subject's CCRB History**

PO Velez does not have any substantiated CCRB allegations (encl. 5A).

### **Conclusions and Recommendations**

#### **Undisputed Facts and Disputed Facts**

It is not in dispute that PO Velez and PO Lukeson responded to a noise complaint in the vicinity of § 87(2)(b) and the civilians dispersed upon the officers' arrival. § 87(2)(b), § 87(2)(g)

#### **Credibility Analysis**

§ 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g) PO Velez stated that § 87(2)(b) jumped on his back, punched him in the back of the head, smacked his face, and tried to rip the shield of his uniform. PO Lukeson stated that § 87(2)(b) punched PO Velez in the back of the head. PO Velez and PO Lukeson both agreed that § 87(2)(b) who is 5' tall, was sitting at the top of the stairs and was throwing punches at PO Velez, who is 5'9" tall. As a result of the alleged assault, PO Velez stated he received numerous punches in the face and was kicked in the genitals. Sgt. Biscardi was informed that the struggle between the civilians and the officers resulted in all of them falling to the ground and finally the officers were able to apprehend § 87(2)(b) and § 87(2)(b). PO Lukeson mentioned that he observed § 87(2)(b) punch PO Velez in the face and knock his glasses off. PO Velez received a contusion to the bridge of the nose and some swelling in the nose (encl. 28A). The medical records noted these injuries, but there was no mention of a swollen eye as stated by Sgt. Biscardi and neither did Sgt. Lopez notice any injuries on PO Velez. PO Velez stated § 87(2)(b) broke his glasses with a punch, he was then hit with the curtain rod by an individual, and then § 87(2)(b) jumped on his back. § 87(2)(b) PO Lukeson stated that he observed § 87(2)(b) knock off PO Velez's glasses and then § 87(2)(b) hit PO Velez. PO Lukeson's only mention of the curtain rod was to state that he observed the item lying on the floor.

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g) PO Velez stated that there was an unidentified male at the top of the stairs during his interaction with § 87(2)(b) and that this male hit him with a curtain rod. PO Lukeson stated that he encountered three males on the second floor and did not see any males, except § 87(2)(b) and PO Velez, on the § 87(2)(b) floor. Also, according to PO Lukeson, PO Velez informed him that § 87(2)(b) hit him with the curtain rod. Sgt. Biscardi stated that PO Velez informed him that § 87(2)(b) hit him with the curtain rod. § 87(2)(g) § 87(2)(b) and § 87(2)(b) stated that PO Velez hit § 87(2)(b) with the curtain rod. § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g) PO Lukeson claimed not to have seen any blood and did not know if § 87(2)(b) was injured or how he could have being injured. § 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g) PO Lukeson stated that back up arrived and a few officers came up and escorted § 87(2)(b) downstairs. The officers also arrested § 87(2)(b) and escorted her downstairs, followed by PO Velez and PO Lukeson. PO Velez stated that after § 87(2)(b) simply disappeared inside the apartment after getting away from PO Lukeson's grasp, he and PO Lukeson escorted § 87(2)(b) downstairs and back up arrived shortly after. The officers and PO Velez then went back upstairs and arrested § 87(2)(b).

§ 87(2)(b) Sgt. Biscardi § 87(2)(g) stated that he was the first officer on the scene and that § 87(2)(b) and § 87(2)(b) were already outside when he arrived.

### **Allegations not pleaded**

§ 87(2)(g) Although the CCRB was unable to obtain a copy of the voucher for the curtain rod, IAB Investigator SDS Clive Caplan spoke to the undersigned investigator on June 14, 2007, and informed the investigator that he had in his possession a copy of the voucher; § 87(2)(g).

### **Allegation A: Abuse of Authority - PO Javier Velez pointed his gun at § 87(2)(b)**

PO Velez drew and pointed his gun in order to stop and arrest § 87(2)(b). PO Velez testified that § 87(2)(b) placed a shiny metal object in his waistband before running inside his house. § 87(2)(b), § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

### **Allegation B: Discourtesy - PO Javier Velez spoke obscenely and rudely to § 87(2)(b)**

§ 87(2)(b) alleged that PO Velez called him a “motherfucker.” PO Velez denied using any profanity. § 87(2)(b), § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

### **Allegation C: Force - PO Javier Velez used physical force against § 87(2)(b)**

§ 87(2)(b) and four witnesses testified that PO Velez punched § 87(2)(b) multiple times. PO Velez denied using any excessive force against § 87(2)(b) and so did PO Lukeson. According to PO Velez, he spent the whole encounter with § 87(2)(b) trying to handcuff him and may have hit him with the handcuffs in the process. The photographs provided by § 87(2)(b) showed various bruises and cuts on § 87(2)(b)'s person, § 87(2)(b), § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

### **Allegation D: Discourtesy - Javier Velez spoke obscenely and rudely to § 87(2)(b)**

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

### **Allegation E: Force- PO Javier Velez used physical force against § 87(2)(b)**

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

### **Allegation F: Force – PO Javier Velez struck § 87(2)(b) with a curtain rod.**

§ 87(2)(b) and § 87(2)(b) alleged that PO Velez struck § 87(2)(b) with a curtain rod. PO Velez denied this allegation and claimed that he was struck with the curtain rod by an unapprehended individual. None of the witnesses saw PO Velez using the curtain rod against § 87(2)(b). The civilian witnesses could only testify as to the blood on § 87(2)(b)'s head. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

**Allegation G: Force – PO Javier Velez pushed § 87(2)(b) s face against a door at the 83<sup>rd</sup> Precinct stationhouse.**

§ 87(2)(b) alleged that PO Velez pushed him against a door at the precinct. PO Velez denies this allegation.

§ 87(2)(g)

Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: